

**MULTI-STATE TAX COMMISSION
PROPOSED MODEL LEGISLATION
SALES AND USE TAX ON TRAVEL INTERMEDIARY SERVICES**

“Retail sale” or a “sale at retail” includes:

- (1) The sale of the service of facilitating hotel room reservations by a Travel Intermediary for any room, lodging, or accommodation furnished to transients by any hotel, inn, tourist court, tourist camp, tourist cabin, motel, or any similar facility in which rooms, lodgings or accommodations are furnished to transients. For purposes of the tax imposed by this Act, the services of a Travel Intermediary for the facilitation of reservations shall be sourced to the location indicated by an address for the purchaser of the services that is available from the business records of the Travel Intermediary.
 - a. The [sales price] of the service subject to tax shall be that portion of the total charge to any customer of the Travel Intermediary that is retained by the Travel Intermediary for the service of facilitating the reservation (the “Facilitation Fee”). The sales price of the service subject to tax shall not include any amount required to be paid by the Travel Intermediary to the Hotel Operator furnishing accommodations.
 - b. The rate of tax shall be the rate applicable to sales of tangible personal property.
 - c. The Travel Intermediary shall not be required to (i) separately state or otherwise disclose the Facilitation Fee, or the amount of tax imposed on the Facilitation Fee, on any customer invoice or customer receipt so long as it can provide such information from its books and records to the [state taxing authority], or, (ii) charge or collect any tax on the amount paid to the Hotel Operator.
 - d. The Travel Intermediary shall not be required to disclose to its customer the amount paid by the Travel Intermediary to the Hotel Operator, including any taxes charged by the Hotel Operator. The Travel Intermediary may represent to its customer that the charge by the Travel Intermediary includes taxes charged by the Hotel Operator. Any charge by the Travel Intermediary for the recovery of taxes charged by the Hotel Operator are not taxes and shall not be considered held in trust for the taxing authority. Only amounts charged by the Travel Intermediary which are separately stated and represented as charges solely for taxes shall be considered collected tax which is held in trust for the State or otherwise required to be remitted to the State.
 - e. A local jurisdiction may impose a sales tax on Facilitation Fees that are subject to state sales tax but may not impose any other taxes on

Facilitation Fees. The rate of tax imposed by the local jurisdiction shall be the rate applicable in the local jurisdiction to sales of tangible personal property. Except as to rate, any local tax existing as of the date of adoption of this section or enacted after the date of adoption of this section, shall correspond to the provisions of this section, and no item or transaction which is not subject to state tax can be subject to any local tax.

- f. For purposes of this section, a Travel Intermediary is an entity that acts independently of hotel operators and who facilitates the reservation of hotel rooms without acquiring ownership or possessory interest in the hotel rooms. A Hotel Operator is a person or entity that operates a hotel, motel, inn, bed and breakfast, tourist camp, or similar facility housing transients by (i) owning a hotel or managing the day-to-day operations of the hotel, and, (ii) furnishing hotel accommodations to the general public (i.e., the act of physically providing hotel rooms to transients).